

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

Jaipur, the 11th August, 2006

ORIGINAL APPLICATION NO. 573/2005

CORAM:

HON'BLE MR. M.L. CHAUHAN, MEMBER (JUDICIAL)

Brajraj Singh son of Late Shri Gulab Singh aged about 54 years, resident of 4/14, CSWRI, Avika Nagar, Malpura, District Tonk and presently working as Assistant Farm Manager, Avikanagar, District Tonk.

....Applicant

By Advocate: Mr. C.B. Sharma

Versus

- 1 Union of India through Secretary, Indian Council of Agricultural Research, Krishi Bhawan, New Delhi.
- 2 Director, Central Sheep & Wool Research Institute (CSWRI, Avika Nagar, District Tonk.
- 3 Head, Central Sheep & Wool Research Institute (CSWRI), Arid Region Campus, Post Bichhwali Industrial Area, Bikaner.

....Respondents.

By Advocate : Mr. V.S. Gurjar

VS

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ORDER

PER MR. M.L. CHAUHAN, MEMBER (JUDICIAL)

The applicant has filed this OA thereby praying for the following reliefs:-

(i) That the respondents may be directed to release payment of Rs. 15,634/- towards transfer traveling allowance with the Rs.16,750/- recovered on account of interest at market rate by quashing note dated 18.08.2003 (Annexure A/11).

(ii) Any other order, direction or relief may be passed in favour of the applicant, which may be deemed fit, just and proper under the facts and circumstances of the case.

(iii) That the cost of this application may be awarded.

2 Briefly stated, facts of the case are that the applicant while working as Assistant Farm Manager (T-6) was transferred from Avika Nagar to Pali vide order No. 3(50)E/84/A.I/Vol.II/3655 dated 06.05.1998 (Annexure A/1) in public interest. Thereafter the applicant was granted Rs.17,000/- as advance as Transfer Traveling Allowance (TTA) vide office order dated 10.06.1998 (Annexure A/2. Consequent upon his transfer, the applicant joined at Pali on 20.07.1998. The applicant made a request to respondent No. 3 to extend period for submitting transfer traveling bill on the ground that due to studies of his children, he

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is unable to shift his family at Pali. His request was forwarded by Respondent No. 3 to respondent No. 2 vide letter dated 12.11.1998 (Annexure A/4). It is the case of the applicant that nothing was heard from the respondents regarding his rejection of his request for submitting Transfer Traveling Bill. It is further stated that in the month of June, 1999, applicant submitted his Bill for Rs. 15,634/- against the advance of Rs.17,000/-. The applicant further made a request that remaining amount of Rs. 1366/- may be deducted from his salary. The applicant placed a copy of request letter dated 02.06.1999 as Annexure A/5. With respect to adjustment of his TTA of applicant, respondent No. 3 directed the applicant to submit further information vide his letter dated 09.09.1999 (Anneuxre A/6) which information was supplied by the applicant vide letter dated 15.09.1999 (Annexure A/7),. Thereafter vide letter dated 02.06.2000 (Annexure A/8), the applicant was informed to deposit Rs.17,000/- alongwith penal interest calculated upto date immediately within seven days from the date of receipt of the communication failing which the same shall be recovered from his Subsistence Allowance. The applicant made a representation against the said order to respondent No. 3 vide letter dated 07.06.2000 and thereafter to respondent No. 2 vide letter dated

12.06.2000 followed by further reminder dated 27.08.2002. It is the case of the applicant that without considering the request of the applicant, the Drawing & Disbursing Officer directed the applicant vide note dated 13.06.2003 to deposit the advance amount of Rs.17000/- to the Cashier of the Institute and thereafter Sr. Administrative Officer on behalf of respondent No. 2 issued a note dated 18.08.2003 to the effect that claim has been forfeited so the entire amount of Rs.17,000/- alongwith interest be deposited within ten days otherwise amount will be recovered from the pay and allowances in ten equal installments. The applicant has placed copy of note dated 13.06.2003 and 18.08.2003 on record as Annexures A/10 and A/11 respectively. It is this note dated 18.08.2003 (Annexure A/11) which is under challenge in this OA. It is further case of the applicant that he further represented to respondent No. 3 on 16.03.2003 but respondents did not consider the request of the applicant and started making recovery from the pay of the applicant. The applicant made further request dated 11.05.1999 to reconsider the matter and not to effect recovery. Copy of such request has been placed on record as Annexure A/12. The applicant made further request dated 02.09.2004 stating therein that recovery of Rs.17,000/- with interest is not at all justified

inspite of the fact that applicant joined at Pali on 20.07.1998 and his family performed the journey on 11.5.1999. Hence there is no delay in submitting the Bill. It is further submitted that as regards taxi charges applicant appraised the respondents that he used his family car and as regards, entry of the car in the institution gate applicant is not at all at fault. Thus according to the applicant, he was entitled to grant of fair and recovery of Rs.17000/- with interest is not justified. The applicant has placed a copy of such request letter dated 02.09.2004 (Annexure A/13). Thus according to the respondents, action of the respondents in recovering a sum of Rs.17,000/- plus 16,750/- towards interest i.e. Total Rs.33,750/- from the pay & allowances of the applicant effecting recovery upto June, 2005 is arbitrary and he was not informed any reasons for forfeiting the claim. It is further stated that the applicant is entitled to transfer grant equal to one month's pay at the relevant time plus fair as per his entitlement. It is on these facts the applicant has filed this OA praying for the aforesaid reliefs.

3 Notices of this application was given to the respondents. The respondents have opposed the claim of the ~~applicant~~ ^{by} that the present application is barred

by limitation as refusal of the claim was communicated to the applicant vide letter dated 02.06.2000 (Annexure A/g). The applicant has not availed any legal remedy and since then except making repeated representations. Therefore, the OA is barred by limitation in view of the mandate of Section 20 and 21 of the Administrative Tribunal's Act, 1985. On merits, it has been stated that the applicant was transferred vide order dated 06.05.1998 and Travelling Advance of Rs.17000/- was sanctioned on 10.06.1998. As per rules, family of the Government servant can complete the journey within six months from the date of relieving from the old station. The applicant has submitted his application for extension of journey of his family members while he received the TTA during June, 1998 and submitted adjustment on 15.09.1999 in the prescribed format i.e. After a gap of one year. It is further submitted that on completion of his journey for self he did not submit the adjustment of Rs.17,000/-. Thus according to the respondents, the full amount of advance was retained by the applicant for more than a period of one year. Thus in view of the provisions of Rule S.R. 194-A, the right of a Government servant to traveling allowance, including daily allowance, is forfeited or deemed to have been relinquished if the claim for it is not preferred

within one year from the date on which it became due. Thus according to the respondents, in view of the provisions contained in SR 194-A, it is not possible to accept the request of the applicant. The respondents have further stated that though the applicant submitted the Bill vide his request dated 02.06.1999 but it was not in proper proforma. Thus the applicant was called upon to submit the Bill in proper proforma on 11.06.1999. Thereafter on 23.07.1999, the TTA Bill dated 20.07.1999 was received and the same was returned to the applicant to complete some queries raised. Thereafter the incomplete bill was received back on 04.09.1999 and the same was again returned to the applicant on 09.09.1999 to complete with some queries. With regard to the claim for journey performed on 10.5.1999 & 11.5.1999, the applicant himself mentioned in TA Bill that his family performed the journey by Tax No. DL 3C-E 6629 from Avika Nagar to Pali but on verification of the facts, it was found that no such tax car entered the premises of Avika Nagar Campus. Since, the applicant did not follow the rule, it was rightly decided to forfeit the claim and calling upon the applicant to deposit the sum of Rs.17,000/- alongwith interest which amount was to be recovered from the salary of the applicant in ten equal installment plus interest, adopting a lenient

approach and the decision was communicated to the applicant.

4 The applicant was given repeated opportunities to file rejoinder but the applicant has not filed any rejoinder. Hence the case was heard.

5 Before examining the matter on merit, let me consider the objection raised by the respondents regarding dismissal of the OA on the ground of limitation. According to the respondents, the claim of the applicant for TTA amounting to Rs.17000/- was forfeited vide order dated 02.06.2000 whereas the present OA has been filed in the year 2005. As such, according to the respondents, this OA cannot be entertained in view of the provisions contained under Section 20 & 21 of the Administrative Tribunal's Act, 1985. I have given due consideration to the submissions made by the respondents. I am not at all inclined to accept ~~the~~ the plea taken by the respondents regarding dismissal of this OA on this ground. It is no doubt true that vide order dated 02.06.2000 (Annexure A/8), applicant was informed that he should deposit the amount of Rs.17,000/- alongwith penal interest within seven days failing which the amount will be recovered from the

subsistence allowance. However, this order was not implemented by the respondents till 2003 when they passed another order dated 18.08.2003 whereby the decision was taken to afford opportunities to the applicant to deposit the sum of Rs.17000/- within ten days failing which the same will be recovered from the pay of the applicant in ten equal installments commencing from September, 2003. However, the recovery continued till June, 2005 whereas the present OA was filed within six months thereafter. Thus it cannot be said that the limitation will start running from 02.06.2000 when the impugned order (Annexure A/8) was passed. However, the respondents have themselves postponed the implementation of the order dated 02.06.2000 and in fact passed another order dated 18.08.2003 (Annexure A/11) to effect recovery from September, 2003. The cause of action in favour of the applicant arose till the recovery continued till June, 2005. Thus ~~as~~ keeping in view the facts & circumstances of the case, I am of the view that the present OA is within the period of limitation and this technical plea taken by the respondents to defeat the legitimate claim of the applicant cannot be accepted.

6 Now let me examine the matter on merit. As per the provisions of the transfer rules, whenever a

government servant is transferred in public interest, he is entitled to traveling transfer allowance. In the instant case, the transfer of the applicant was made in public interest from Avika Nagar to Pali. It is not in dispute that pursuant to the transfer order dated 06.05.1998 (Annexure A/1), the applicant was sanctioned a sum of Rs.17,000/- as TTA advance ^{of which} _{amount} was to be adjusted from the TTA Bill of the applicant and the applicant was to submit the adjustment claim within six months after the completion of his journey which period could have been extended upto one year and if not preferred within one year from the date on which it became due, such claim should stand forfeited or deemed to have been relinquished. It is also not in dispute that the applicant joined at Pali on 20.07.1998. According to the applicant, the family also took journey in the month of May, 1999 as his children were studying. The applicant submitted his claim vide letter dated 02.06.1999 (Annexure A/5) whereby requesting that the sum of Rs.15,634/- may be adjusted against TTA advance of Rs.17,000/- and remaining amount of Rs.1366/- be deducted from his salary. The respondents in the reply have admitted that such claim was submitted by the applicant on 02.06.1999 but the applicant was called upon to submit the same in proper proforma on 11.06.1999.

Thereafter on 23.07.1999, TTA Bill dated 20.07.1999 was received. The respondents have also stated the said Bill was returned to the applicant to answer certain queries raised. Thereafter the incomplete Bill was received back on 04.09.1999 and the same was again returned back to the applicant on 09.09.1999. The final Bill was submitted by the applicant on 15.09.1999 attending all the queries raised by the competent authority and it was thereafter that order dated 02.06.2000 (Annexure A/8) was issued thereby forfeiting the entire amount of Rs. 17000/-and the applicant was also held liable for penal interest on the said amount.

7 Thus from the facts as stated above the point which requires consideration in this case is whether the applicant has submitted his claim within one year from the date on which it became due? On this point, there cannot be any serious dispute. There are Government of India's order below SR 194-A which stipulates as & when claim should be considered as falling due for payment and what should be the date of submission of the claim. As per Government of India order dated 18.02.1976 Para No. 4(1) a claim for TA should be considered as falling due for payment on the date succeeding the date of completion of a journey to

which the claim relates. It is further clarified that in the case of TTA also, the claim falls due on the date succeeding the date of completion of journey and not from the date of assumption of charge at the new station and in cases where the officer and members of family travel separately, the dates should be reckoned separately for each on the date succeeding the date of completion of each individual journey. Similarly as per Para 4(2) the date of submission of claim in the case of the officers who are not their own Controlling Officer, would be the date of submission of the claim to Head of the Office /Controlling Officer. In order to decide this point, viz. Reckoning of dates on which "claims falling due for payment" and "submission of claim" it will be useful to quote order dated 09.09.1999 in extenso, which thus reads :

No. 2(4) BK/91/V.II/2304
Dated: 9.9.99

To

Sh. B.R.Singh,

Asstt. Farm Manager (Agri.)

CSWRI, Avikanagar

Via; Jaipur (Raj)

Sub: Adjustment of TTA Bill from CSWRI
Avikanagar

to Pali regarding.

Sir,

With reference to your letter No. Nil dated 18.8.99 regarding adjustment of TTA Bill from CSWRI, Avikanagar to Pali, the following informations may please be sent to this office by return of post.

- 1 Bus tickets and taxi fair receipt on 19.7.98 from CSWRI Avikanagar to Pali.
- 2 TR-5 No. and date of receipt of unsent amount alongwith panel interest if any deposited.
- 3 Director's permission for over staying of family members beyond 6 months.
- 4 Cash receipt or proof thereof on account of journey performed on 10.5.1999 to 11.5.1999 from CSWRI Avkn. To pali vide car No. DL-3C-36629 as shown in TTA.
- 5 Un-signed TTA bill was received to this office this may be signed and returned immediately.

Encl.: TTA Bill

Yours faithfully,

(V.K. Singh)

Head

8. Thus from the letter reproduced above, it is clear that the applicant had completed his journey on

19.07.1998 and he was asked to produce the proof in respect of Bus ticket and Taxi fair from Avika Nagar to Pali (Item No. 1). So far as other members of the family of the applicant are concerned, they traveled separately. They performed the journey on 10.5.99 to 11.5.1999 vide Car No. DL-3C-E6629 (Item No. 4). Thus it can be safely concluded that dates on which claims fall due for payment in the case of applicant is 20.07.1998 (succeeding the date of completion of journey) and in the case of members of family who travelled separate the relevant date is 11.5.1999. Similarly the date of submission of claim in the present case would be 02.06.1999 when the applicant submitted the claim to Respondent No. 3 being Head of Office/ Controling Officer. As per SR 194-A and also as per clarification issued under orders Para (4)"all government servant are expected to prefer their TA claim within one year of their becoming due and where the claims have not been preferred by that period they stood forfeited." In the instant case, the applicant have submitted his claim within one year as such the provision of SR 194-A is not attracted in the instant case. Further the order dated 02.06.2000 (Annexure A/8) no where — states that claim was rejected/ forfeited as the TA Bill was not submitted within one year as per SR 194-A. This plea has been taken by the respondents in the reply. — As already stated above, the

applicant vide letter dated 02.06.1999 (Annexure A/5) has submitted his claim of TTA and requested the competent authority to adjust sum of Rs.15,634/- from Rs.17000/- taken as TTA advance and to deduct the balance amount of Rs.1366/- from his salary. It is also on record that applicant was called upon to submit his claim in proper proforma and to answer queries raised on different dates i.e. 11.06.1999, 23.07.1999, 04.09.1999 and 09.09.1999. Thus the claim of the applicant was entertained by the respondents and it was never rejected on the ground that it was submitted after one year which course was available to the respondent. Thus the plea of the respondents that claim was submitted after one year cannot be accepted. Rather from the material placed on record, it appears that the respondents have rejected the claim on account of non performance of journey by the members w.e.f. 10.5.1999 to 11.5.1999 vide Car No. DL-3C-E6629 as shown in the TTA Bill. According to the respondents, there is no entry of the aforesaid Car in the premises of Avika Nagar Campus. Further from the material placed on record, it is transpired that applicant has taken contradictory plea that when applicant preferred the TTA Claim it was mentioned that he performed the journey by Taxi and when the applicant was asked to produce the receipt, the

applicant replied that in fact it was his own car. Thus at the most, it was permissible for the competent authority to reject the claim of the members of the family who traveled separately from 10.5.1999 to 11.5.1999 but it was not legally permissible for the respondents to reject the claim of the applicant regarding journey he performed on 19.07.1998 and joined the new station on 20.07.1999 on account of his transfer from Avikanagar to Pali and other claims. As per rules, where the transfer is made in public interest, the Government servant is entitled to composite transfer Grant which shall be equal to one month's pay in the case of the transfer involving a change of station located at a distance more than 20 Kms. The applicant has specifically stated that his basic pay at the relevant time was Rs.8250/-, as such he was entitled for one month's basic pay, as admittedly distance between the old and the new station is more than 20 Kms. Thus, it was not legally permissible for the respondents to reject this claim. Further, as per rules the government servant and members of the family are also entitled to road mileage for journey between the residence and the local station/bus station at the old and the new station. In case, the claim of the family for road mileage between the residence and bus station at the

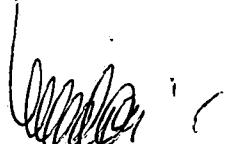
old and new station for the journey performed on 10.5.1999 to 11.5.1999 vide car No. DL-3C-E6629 was not found genuine by the competent authority, it was not permissible to reject the claim of the applicant for fair for the journey performed by him on 19.07.1998. It is an admitted position that pursuant to transfer order, the applicant joined the new station on 20.07.1998. Thus it cannot be said that the applicant has not performed any journey. As the genuineness of the claim of the family who have performed journey subsequently on 10.5.1999 to 11.5.1999 was doubtful, at the most the said claim could have been rejected and not the entire claim. Thus I am of the firm view, that the applicant was entitled to composite traveling grant amounting to one month's basic pay as also the fair on account of journey performed by him on 19.07.1998 from Avika Nagar to Pali. It was not permissible for the respondents to reject the entire claim of the applicant solely on the ground that there is no entry of Taxi No. DL-3C-E6629 from Avika Nagar to Pali on 10.5.1999. Further the objection of the respondents that the claim, submitted after one year, was deemed to be rejected as per Rule 194-A is wholly misconceived. As already stated above, the applicant performed the journey on 19.07.1998. Thus it is

20.07.1998 which is the relevant date on which the claim fell due for payment in terms of Government of India's order dated 10.02.1976 Para 4(1) below SR 194-A, In this case, the claim was rejected by respondents vide order dated 02.06.2000 (Annexure A/8). The applicant has submitted his claim to respondent No. 3 on 02.06.1999 (Annexure A/5) well within the period of one year. Thereafter, the respondents have raised certain queries which was answered by the applicant. Thus the action of the respondents in rejecting the claim of the applicant in entirety and making recovery of Rs.17000/- as TTA alongwith interest is highly illegal.

¶ In order to do justice to the applicant, I am of the view that the applicant is entitled to composite transfer grant equal to one month's ~~basic~~ pay and also road mileage for journey conducted by the applicant from Avikanagar to Pali. However, the applicant is not entitled for the claim of journey performed by his family from Avika Nagar to Pali vide Car No. DL-3C-E6629 on 10.5.1999 to 11.5.1999. The respondents will adjust the aforesaid amount from TTA ^{advanc} ~~Sanctioned~~ to the applicant vide office order dated 10.06.1998. The respondents shall calculate the balance amount to be recovered from the applicant, which amount shall be

deducted from the recovery made from the applicant alongwith amount of interest to be calculated on the balance amount upto 30.06.2000 i.e. The month ending the order dated 02.06.2000, when the decision was taken by the respondents to forfeit the claim of the applicant and he was directed to deposit the TTA advance alongwith interest within seven days. In case the applicant had not deposited the amount within seven days in that eventuality it was open for the respondents to recover the amount pursuant to order dated 02.06.2000 (Annexure A/8) but they deferred the recovery till September, 2003. As such, the applicant cannot be held responsible for inaction on the part of the respondents to recover the amount and made liable to pay interest for inaction of the respondents.

With these observations, the OA is partly allowed. The respondents are directed to refund the excess amount after undergoing the aforesaid exercise within a period of two months from the date of receipt of a copy of this order. No order as to costs.



(M.L. CHAUHAN)

MEMBER (J)

AHQ